

43 House Members Call for Hearing on Murphy's SCOTUS Transparency Bill

WASHINGTON—43 members of the U.S. House of Representatives sent a letter to leaders of the House Judiciary Committee, calling for immediate action on The Supreme Court Transparency and Disclosure Act, legislation by Congressman Chris Murphy that would bring transparency and accountability to the nation's highest court by requiring that its justices be held to the same ethical standards as other federal judges, shine more sunlight on the activities of the justices and establish a review process of a justice's decision to refuse a recusal motion.

"The public's trust in the Supreme Court has been damaged because of the political activities of some of the justices," said Murphy. "This bill aims to restore that trust by making the Supreme Court more accountable and transparent, and with the looming possibility of a Supreme Court fight over the health insurance law, Americans deserve to know that this increasingly activist court is immune to special interests."

Rep.
Murphy's bill would:

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Apply the Judicial Conference Code of Conduct, which applies to all other federal judges, to Supreme Court Justices. Currently, the justices only look to this standard as "guidance".

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Require Supreme Court justices to publicly disclose their reasoning behind a recusal when they withdraw from a case and when they refuse to recuse themselves after a motion is made for them to do so.

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Require the Judicial Conference to develop a process to review decisions by justices who have refused to step aside from a case.

Full text of the letter:

September
9, 2011

Dear
Chairman Smith and Ranking Member Conyers:

We write to you today to ask that you hold a hearing on HR 862, the Supreme Court Transparency and Disclosure Act. This commonsense bill would go a long way towards restoring the public's confidence in the Supreme Court after several recent questionable actions by some of its members.

The Supreme Court must be a neutral arbiter that acts without bias or prejudice. We the people created our Constitution to "establish justice," and the promise that Supreme Court justices abide by the rule of law and not political influence or ideology is at the foundation of who we are as a country.

This bedrock principle is important with the prospect that the Supreme Court will eventually rule on the constitutionality of legislation debated by this Congress, like the Affordable Care Act. Whatever the justices decide, the legitimacy of their decisions depend on whether the American people believe them to be impartial and above any particular political or financial interests.

Yet, there have been alarming reports of justices — most notably Justices Antonin Scalia, Clarence Thomas and Samuel Alito — attending political events and using their position to fundraise for organizations. These activities would be prohibited if the justices were required to abide by the Judicial Conference Code of Conduct, which currently applies to all other federal judges. On these issues the code is quite clear. Canon 4C states that "a judge should not personally participate in fund-raising activities, solicit funds for any organization, or use or permit the use of the prestige of the judicial office for that purpose." Additionally, in Canon 5 the code states, "[a] judge must refrain from all political activity." While we understand that the Supreme Court is unique by its very nature, we do not believe there should be one set of guidelines for Supreme Court justices and stricter standards for all other judges.

The Supreme Court possesses the incredible power to interpret or even strike down laws they deem inconsistent with the Constitution. America trusts them with this power because justices must come to each case without a personal or financial stake in the outcome. Recent revelations about Justice Thomas accepting tens of thousands of dollars' worth of gifts from individuals and organizations who often have an interest in matters before the courts calls into question the Court's impartiality. Canon 4D of the Code of Conduct incorporates regulations providing that "[a] judicial officer or employee shall not accept a gift from anyone who is seeking official action from or doing business with the court." Yet Justice Thomas received a gift valued at \$15,000 from an organization that had a brief pending before his Court at the very moment they gave him the gift. Incidents such as these undermine the integrity of the entire judiciary, and they should not be allowed to continue.

The Supreme

Court Transparency and Disclosure Act was introduced to shine a light on these issues. First, it would apply the Judicial Conference Code of Conduct, which applies to all other federal judges, to Supreme Court Justices. Currently, the justices only look to this standard as "guidance". Second, the bill would require Supreme Court justices to publicly disclose their reasoning behind a recusal when they withdraw from a case and when they refuse to recuse themselves after a motion is made for them to do so. Lastly, it would require the Judicial Conference to develop a process to review decisions by justices who have refused to step aside from a case.

As Supreme Court Justice Louis Brandeis once said, "sunlight is said to be the best of disinfectants". It is time that we apply that same ideal to the Supreme Court. Again, we urge you to schedule a hearing on HR 862, to help restore the public's faith in our judicial system and to guarantee the integrity of our country's highest court.

Sincerely,

Christopher S. Murphy

Gary L. Ackerman

Timothy H. Bishop

Earl Blumenauer

Bruce L. Braley

Yvette D. Clarke

William Lacy Clay

Steve Cohen

Joe Courtney

Peter A. DeFazio

Rosa L. DeLauro

Michael F. Doyle

Keith Ellison

Anna G. Eshoo

Bob Filner

Barney Frank

John Garamendi

Raúl M. Grijalva

Maurice D. Hinchey

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Paul Tonko

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